

IN THE RESIDENT MAGISTRATES COURT
AT SUVA
CRIMINAL JURISDICTION

Juvenile Case No. 13 of 2019

The State

v

W N (Juvenile)

For the State : PC Saula
For the Juvenile : In Person
Date of the Punishment : 18th April 2019

ORDER OF COURT

Introduction

1. You have been charged with one count of **Absconding Bail** contrary to Section 26(1) of the Bail Act Number 26 of 2002.

Particulars of the Offence

You (the juvenile), on the 11th day of December 2018, at Suva in the Central Division, being the Accused person released on bail to attend Suva Magistrate Court on 30th January 2019, absconded bail and failed to surrender to custody without a reasonable cause.

2. You pleaded guilty to the charge on 28/03/2019. You have waived your right to have a counsel on your behalf and informed court that you are pleading guilty on your own free will.

3. The prosecution filed the Summary of Facts on the same day which was duly admitted by you. It revealed that while you were on bail by the Magistrate Court No. 7, Suva, with a condition to appear in Court on 30th January 2019, you have failed to do so and breached the said condition without a reasonable cause.
4. Being satisfied with your unequivocal plea of guilt and the admitted summary of facts which satisfy the elements of the offence, I find you guilty to the offence of **Absconding Bail**, as set out in the charge.

Tariff

5. The maximum penalty for Absconding Bail is fine of \$2000 and/or 12 months imprisonment. The tariff for this offence has been discussed in the case of Raj V State FJHC 74; HAA 032 of 2008 (18 April 2008) by Justice Mataitoga to be in the range from a non-custodial to 6 months imprisonment.
6. In the State v Shailendra Singh High Court Cr. Revision Case No. HAR001 of 2013 [Navua Traffic Case 3424 of 2011; Navua Cr. Case 123 of 2011] Hon. Chief Justice Gates, observed that *"By way of guidance, sentencing courts should try to maintain a correlation between the gravity of the substantive offence and the absconding bail matter. If the offence was a comparatively minor one and attracted a fine of \$150, the bail absconding offence should have attracted a fine in the range \$100-\$200..."*
7. In Buakula v State [2007] FJHC 75; HAA 104.2007 (23 November 2007) Accused had been sentenced to 8 months for Absconding Bail from the Magistrate Courts. In appeal it was decided that the sentence is appropriate due to the list of previous convictions shows a pattern which must lead to the imposition of a proportionate sentence. At the same time Justice Shammem observed that *"A shorter term might have been indicated had the Appellant been a first offender with no history of disobedience to bail orders."*

8. It is projected from above mentioned authorities that it is pertinent to consider the nature of the offence of the substantive case and the history of the offender of obeying bail orders of the court.

Aggravating Factors

9. There are no specific aggravating factors revealed in this case.

Mitigating Factors

10. You are 17 years old.
11. You are a first offender.

Early Guilty Plea

12. You have pleaded guilty at the earliest available opportunity saving time of the court and the expenses of a full trial. It shows your remorse. Therefore, your early guilty plea should attract a considerable concession on your sentence.

Analysis & Punishment

13. Your substantive case before this court is Case No. 102 of 2018 where you have been charged with one count of *Common Assault*. You have failed to appear in court on 30/01/2019 (Only one instance). The said case was reconciled between you and the complainant.
14. Your father has submitted a letter to court in mitigation stating that you are a well behaved child at home and he believes that you will become a better person in future. He has apologised to court on your behalf and promised that he will keep you away from breaking the law in future.

15. Considering the nature of your offence, mitigating factors and the undertaking given by your father, I order your parents (Mother/father) to give a security of \$500 ensuring the good behaviour of you, in terms of section 32(1) (d) of the Juvenile Act. This security is valid until you complete 18 years of age.
16. The nature of your punishment is explained to you and your parents in court. If you commit any other offence during this period, the said security may be forfeited.
17. 28 days to Appeal.



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Geethani Wijesinghe
Resident Magistrate

At Suva

18th April 2019